IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5619 of 1987

with

SCA NOS. 9881 TO 9896 OF 1999

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.THAKKAR

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

RAJAMAL JETHANAND SINDHI

Versus

MODASA NAGAR PANCHAYAT

Appearance:

MR KS NANAVATI for Petitioners

Ms Siddhi Talati, AGP for Respondent authorities.

CORAM : MR.JUSTICE C.K.THAKKAR

Date of decision: 24/03/2000

ORAL JUDGEMENT

So far as SCA No. 5619 of 1987 is concerned, it is the main petition. In fact, that was the only petition which was filed in 1987 . It was filed by 17 petitioners. It was filed for an appropriate writ, direction or order for a declaration that the action of the respondent authorities in demolishing cabins of the petitioners and interfering with their business was illegal, arbitrary and unreasonable. Rule was issued in that petition and it was placed for final hearing.

At that stage, the Court directed that since there were several cabin-holders, separate petitions were required to be filed and accordingly, SCA Nos. 9881 to 9896 of 1999 were filed.

Rule in SCAs Nos. 9881 to 9896 of 1999. Ms Siddhi Talati, learned AGP appears and waives service of rule on behalf of respondent authorities. In the facts and circumstances, the matters are taken up for final hearing today.

At the time of hearing, learned counsel for the petitioners stated that in respect of three petitioners viz. petitioner No.1-Rajamal Jethanand Sindhi (petitioner of SCA No.5619 of 1987), petitioner No.13 Dinmeshchandra Somalal Soni (petitioner of SCA No. 9892 of 1999) and petitioner No.17-Ambalal Savganbhai Patel (petitioner of SCA No. 9896 of 1999) have been accommodated by the Collector, respondent No.3. He also stated that in pursuance of the order passed by the Collector on 31st December, 1998, consequential action was taken by Modasa Nagar Panchayat, respondent No.1 on 21st September, 1999. He has produced the orders passed by respondents Nos.3 and 1 which are taken on record.

Learned counsel,therefore, submitted that similar treatment may also be shown to remining petitioners.

In the facts and circumstances, in my opinion, it would be in the interest of justice if the remaining petitioners are granted liberty to make applications to appropriate authority requesting it to extend benefits which have been extended in favour of three petitioners. If such applications are made within six weeks from today, the authorities will consider the same in accordance with law and in the light of the decision taken by the Collector, Sabarkantha in Appeal No. 41 of 1997 decided on 31st December, 1998. An appropriate decision will also be taken by Modasa Nagar Panchayat, respondent No.1.

With the above observations, all the petitions deserve to be disposed of and are accordingly disposed of. Rule discharged in each petition. There shall be no order as to costs.

Before parting with the order, I may state that since the Court has directed to file separate petitions, one page petitions are filed. Office will not insist for separate Annexures or Vakalatnama since all petitioners have signed the Vakalatnama in the main petition, viz. SCA No.5619 of 1987. Office will also not insist for payment of court fees since courts fees have also been paid in the main petition by all the petitioners. Learned counsel for the petitioners will, however, affix additional stamp on Vakalatnama for the remaining petitioners i.e. 16 petitioners. Such stamps will be affixed by the learned counsel for petitioners within two weeks from today.

All the petitions are accordingly disposed of. Liberty to apply in case of difficulty.

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parekh